



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2015-0731]

RIN 1625-AA87

Security Zone; Martha's Vineyard, Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing two 1000-yard temporary security zones in support of U.S. Secret Service (USSS) security operations in the navigable waters of the U.S. in portions of the coastal areas of Martha's Vineyard, Massachusetts. These security zones are needed to support USSS security operations and will be effective as directed by the USSS within 1000 yards of the navigable waters of the U.S. in portions of the coastal areas of Martha's Vineyard, Massachusetts. Vessel and people are prohibited from entering this security zone unless specifically authorized by the Captain of the Port (COTP) or the COTP's designated on-scene representative.

DATES: This rule is effective without actual notice from 6:30 a.m. on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 5 p.m. on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement, actual notice will be used from 8 a.m. on August 7, 2015, until this rule is effective without actual notice.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2015-0731 and are available online by going to <http://www.regulations.gov>, inserting USCG-2015-0731 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Edward G. LeBlanc at Sector Southeastern New England; telephone (401) 435-2351, e-mail [Edward.G.LeBlanc@uscg.mil](mailto:Edward.G.LeBlanc@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

## Table of Acronyms

APA	Administrative Procedure Act
CFR	Code of Federal Register
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
U.S.C.	United States Code
USCG	United States Coast Guard
USSS	United States Secret Service

### A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because of the sensitive security issues related to USSS security operations. Providing a public notice and comment period is contrary to national security concerns and the public interest.

Under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Any

delay encountered in this temporary rule's effective date would be contrary to the public interest given the immediate need to support USSS security operations in portions of the coastal areas of Martha's Vineyard, Massachusetts, from August 7, 2015 through August 24, 2015.

#### B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish security zones.

The USSS will conduct security operations on property that borders U.S. navigable waters within the Captain of the Port, Southeastern New England zone. The USSS has requested that the Coast Guard provide 1000-yard waterside security zones from portions of the coastal areas of Martha's Vineyard, Massachusetts. These security zones are necessary to provide security by preventing vessels and persons from approaching the area(s) of USSS security operations without prior authorization from the COTP.

#### C. Discussion of Rule

For the reasons discussed above, the Captain of the Port, Sector Southeastern New England, is establishing a temporary security zone. The temporary security zone will

be enforced from 8:00 a.m. on Friday, August 7, 2015 through 5:00 p.m. on Monday, August 24, 2015.

This action is intended to temporarily prohibit vessels or people from approaching within 1000 yards of USSS security operations in portions of the coastal areas of Martha's Vineyard, Massachusetts.

The Captain of the Port, Southeastern New England, anticipates negligible negative impact on vessel traffic from these temporary security zones, as they will be in effect for only eighteen days, and will only be enforced during USSS security operations in portions of the coastal areas of Martha's Vineyard, Massachusetts. It has been determined that the necessary security enhancements provided by this rule greatly outweigh any potential negative impacts.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of

potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this rule will not be significant as the duration of the security zones is for only eighteen days, and will only be in effect during USSS security operations from portions of the coastal areas of Martha's Vineyard, Massachusetts.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of

which may be small entities: the owners and operators of vessels intending to transit in the vicinity of Martha's Vineyard, Massachusetts from 8:00 a.m. on Friday, August 7, 2015 until 5:00 p.m. on Monday, August 24, 2015. These temporary security zones will not have a significant impact on a substantial number of small entities for all of the reasons discussed in the "REGULATORY PLANNING AND REVIEW" section above.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If you think your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Mr. Edward G. Leblanc at (401) 435-2351.

### 4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### 5. Federalism

A rule has implications for federalism under Executive

Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

## 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## 10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

## 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction. This rule fits the category selected from paragraph (34)(g), as it establishes temporary security zones for a limited period of time. An environmental analysis checklist and a categorical

exclusion determination will be available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-0731 to read as follows:

§ 165.T01-0731 Security Zone; Martha's Vineyard, Massachusetts.

(a) Location. The following areas are security zones: All navigable waters, from surface to bottom, within 1000 yards of U.S. Secret Service security operations in the navigable waters of the U.S. in the coastal areas of Martha's Vineyard, Massachusetts.

(b) Notification. Coast Guard Sector Southeastern New England will give actual notice to mariners for the purpose of enforcement of these temporary security zones.

(c) Effective and Enforcement Period. This section will be enforced from 8:00 a.m. on Friday, August 7, 2015 until 5:00 p.m. on Monday, August 24, 2015.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.33 apply.

(2) In accordance with the general regulations in §165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port or his designated representatives.

(3) The "designated representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, or onboard a federal, state, or local agency vessel that is authorized to act in support of the Coast Guard.

(4) Upon being hailed by a U.S. Coast Guard vessel or his designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Vessel operators desiring to enter or operate within these security zones shall contact the Captain of the Port or his designated representative via VHF channel 16 to obtain permission to do so.

Dated: August 4, 2015

J. T. KONDRATOWICZ  
Captain, U.S. Coast Guard  
Captain of the Port, Southeastern New England  
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